
REPORT 1

APPROVAL OF DISTRICT PLAN CHANGE 77 – CURTIS STREET BUSINESS AREA

1. Purpose of Report

To report to Council the recommendations of the Hearing Committee on District Plan Change 77 of the Wellington City District Plan.

2. Executive summary

The Hearing Committee has considered all written and oral submissions on Plan Change 77 and made its recommendations.

As a result of submissions received on the notified plan change some changes have been made to improve the implementation of the objectives, policies and rules. However, the fundamental approach adopted in the notified plan change remains intact.

If Council adopts the recommendations of the Committee, then this report will become the Council decision. If however, the Council rejects one or more of the proposed recommendations the hearing process would need to be recommenced and determined by the whole of Council.

3. Recommendations

It is recommended that the Council:

- 1. Receive the information.*
- 2. Approve the recommendations of the District Plan Hearing Committee in respect of District Plan Change 77 (Curtis Street Business Area) as outlined in the attached report (Appendix 1).*
- 3. Note the non-statutory recommendation made by the Hearing Committee and that Council undertake planting and on-going maintenance within the Old Karori Road Reserve to protect the ecological values of the road reserve.*

4. Background

Proposed District Plan Change 77 is a Council initiated plan change covering land at 55-85 Curtis Street, Karori. Presently the land has a 'split' zoning in the Wellington City District Plan, with part of the land zoned as 'Open Space B' and the other part 'Outer Residential Area'. It is proposed that the whole of the area be rezoned as 'Curtis Street Business Area'.

The background to the plan change proposal is that Council previously proposed to rezone the land 'Business 2' as part of the city-wide review of the Suburban Centres provisions (District Plan Change 73 –DPC 73). DPC 73 was notified in September 2009 and following the usual district plan change submission and hearing process, the Council's decision was notified in September 2012 confirming the Business 2 zoning of the land.

Following the Council's decision on DPC 73, and separate from appeals lodged with the Environment Court by a number of submitters, the Creswick Valley Residents' Association (CVRS) lodged judicial review proceedings against the rezoning of the land. The High Court decision of April 2012 upheld the CVRA's submissions and overturned the rezoning, returning it to its original split Residential and Open Space zoning.

The Council subsequently resolved to review the future zoning of the site via a new plan change process which would take into account the site-specific characteristics of the land.

Consequently Plan Change 77 'Curtis Street Business Area' (DPC77) was publicly notified on 11 December 2012.

The public notice stated that DPC 77 introduced dedicated objectives, policies and rules to enable various business and commercial activities to establish on the land subject to area-specific environmental controls which include:

- controls on the establishment of supermarkets and integrated retail developments for the purpose of managing impacts on existing centres;
- building floorspace and height controls to manage landscape impacts;
- retail and commercial floorspace controls to reduce the impact on the surrounding road network;
- a rule to discourage the establishment of 'sensitive activities' - such as schools and residential dwellings - to avoid 'reverse sensitivity' conflicts with the overhead high voltage electricity transmission lines crossing the land; and
- various provisions encouraging the retention and planting of vegetation for landscape and ecological reasons.

Following public notification 65 submissions and 8 further submissions were received. Sixteen submitters attended the hearing that was held over three days (3 to 5 September 2013).

The Hearing Committee comprised three independent commissioners, Alistair Aburn (chairperson), Sue Piper and Gavin Lister. The Committee undertook three site visits, one prior to the hearing and two after the hearing.

Under section 34A of the Resource Management Act 1991, the Council cannot delegate its function of approving plan changes. In addressing the issues raised by submitters, the role of the Hearing Committee is limited to that of a recommender with the final decision as to whether or not to adopt recommendations resting with the Council.

The conclusions and recommendations contained in this report are those of the Committee and are not binding upon the Council in any way. If Council adopts the recommendations of the Hearing Committee, then this report will become the Council decision. If however the Council rejects one or more of the proposed changes and recommendations, the hearing process would need to be re-commenced and determined by the whole of Council.

5. Overview of Report

Submissions were received from a range of interests, but principally from residents. Aside from the submissions from individual residents there were submissions from:

- PrimeProperty Group (the parent company of the land owner)
- Greater Wellington Regional Council
- Transpower NZ Limited
- New Zealand Historic Places Trust
- Architectural Centre Inc
- Creswick Valley Residents' Association Inc
- Wilton Residents' Association
- Trelissick Park Group
- Marsden Village Association Inc

While the majority of the submitters were generally opposed to the rezoning and requested the retention of the current zoning, including the Open Space B zoning, there was some support for the intention to provide additional zoned land for business/commercial activities serving Karori and the western suburbs.

The key issues discussed at the hearing included:

- loss of open space land
- appropriateness of the business area zoning
- impact on existing centres
- impact on ecological values generally but specifically on the glow worm colonies on seepage wetlands on the adjacent escarpment (Old Karori Road 'road reserve')
- impact on Kaiwharawhara Stream (stormwater management)
- earthworks and loss of vegetation
- building bulk, design and external appearance (including signage)
- impact on residential amenities (noise and lighting)
- transportation issues, including increased congestion on the local road network and site access and parking concerns

- appropriateness of development beneath the electricity transmission lines

After its deliberations, and having considered the requirements of the RMA and issues raised in submissions, the Hearing Committee concluded that the plan change was appropriate and would allow development of the land in a manner that would respond to both the site-specific characteristics of the site and its wider setting.

The Hearing Committee did nevertheless identify some changes which were considered necessary to better manage effects of the development, particularly in relation to the ecological values of the land to the immediate west – i.e. Old Karori Road ‘road reserve’, which is now a walking track forming a section of the ‘Sanctuary to Sea’ walkway. The recommended changes are incorporated in the amended version of DPC 77 which is attached as Appendix 2 to the Hearing Committee’s Report.

If Council approves Plan Change 77 the decision will be notified and submitters will have the right to appeal the decision to the Environment Court. If no appeals are made the plan change will become operative.

6. Conclusion

The Hearing Committee has considered all submissions on Plan Change 77 and, where appropriate, has modified the notified provisions of the plan change in response to some submissions.

Once approved by Council the decisions will be publicly notified and served on the parties. They have the option of appealing any matter relevant to their submission to the Environment Court within 30 working days. If no appeals are received then Plan Change 77 will become fully operative.

Report from: *Alistair Aburn, Chair of the District Plan Hearing Committee – Plan Change 77 (Curtis Street Business Area)*

Contact Officer: *John McSweeney, Acting Manager District Plan*

Supporting Information

1) Strategic Fit / Strategic Outcome

The District Plan Change supports goals and outcomes desired by the Urban Development Strategy.

2) LTP/Annual Plan reference and long term financial impact

There are no specific OPEX or CAPEX proposals directly related to this paper.

It is noted that funding will be required in order to resolve any appeals that may be received following the release of the decision.

3) Treaty of Waitangi considerations

All District Plan work is required to take into account the principles of the Treaty of Waitangi (refer to section 8 of the Resource Management Act 1991).

4) Decision-Making

The proposal to change the District Plan is in accordance with Council's wider strategic framework and the decisions made on submissions maintain the original intent of the notified provisions.

5) Consultation

a) General Consultation

The notified plan change reflected the advice and feedback from the consultation stage. The Hearing Committee's report discusses the submissions received and decisions made on those submissions.

b) Consultation with Maori

The Wellington Tenth Trust and Te Runanga o Toa Rangatira were advised of the plan change. No submissions were received from them.

6) Legal Implications

The Proposed Plan Change has been assessed in accord with the Resource Management Act 1991.

7) Consistency with existing policy

The Plan Change is consistent with other Council policy.